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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,095	01/14/2004	Olivier Attia	02-003	3509

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EXAMINER	
PAIK, STEVE S	

ART UNIT	PAPER NUMBER
2876	

DATE MAILED: 02/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/757,095	ATTIA ET AL.	
	Examiner	Art Unit	
	Steven S. Paik	2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *05 December 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,4-14 and 16-25* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,4-14 and 16-25* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. Receipt is acknowledged of the Amendment filed December 5, 2005. The applicant cancelled claims 2, 3, and 15.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1, 4, 7-14, 18-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogasawara (US 6,512,919) in view of Lev et al. (US 2002/0102966 A1).

Re claims 1, 4, 11-14 and 22-25, Ogasawara discloses a system and method for decoding on a mobile device (while a consumer is scanning a particular bar code with the digital camera, the image seen by the camera is displayed on the system's graphic display screen) and analyzing a barcode (See Fig. 1) comprising:

at least one machine readable barcode (22 and 31 in Fig. 1);

at least one mobile device (218) equipped with a digital camera (236) for imaging said barcode, wherein said mobile device decodes the barcode information from said barcode image (col. 18, ll. 11-22);

a wireless network (Fig. 1 and col. 4 and 5 discloses a type of acceptable network available for the invention); and

a server for receiving and processing said barcode information via said wireless network

(col. 22, ll. 40-68), wherein said server transmits media content to said mobile device after processing said barcode information (col. 6, ll. 42-52; col. 18, ll. 22+).

However, Ogasawara does not explicitly disclose barcode image enhancing step as recited in claim 14.

Lev et al. disclose An object identification method for wireless portable devices for a user equipped with a portable wireless imaging device to be able to obtain information and services related to imaged objects, where the object identification is performed at least partially by a remote computational facility, and where the object identification is based on acquired images of the object. The method includes an imaging device, capable of taking one-dimensional or two dimensional images of objects; a device capable of sending the coded image through a wireless channel to remote facilities; algorithms and software for processing and analyzing the images and for extracting from them symbolic information such as digits, letters, text, symbols or icons; algorithms and software facilitating the identification of the imaged objects based on the information gathered from the image and the information available in databases; and algorithms and software for offering various information or services to the user of the imaging device based on the information gathered from the image and the information available in databases. Lev et al. further disclose algorithms for barcode detection and extraction in col. 6 and a wireless and portable phone (cellular) system. The algorithms are for improving and enhancing readability of barcode images taken by the imaging device. The cellular phone system with capabilities of sending and receiving text and video data are well known in the art. The wireless and portable device includes a PDA which uses operating system such as Windows CE or Palm OS

In view of Lev et al.'s teaching, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to further employ algorithms and software for enhancing barcode images in addition to the system of Ogasawara due to the fact that more improved barcode images can be achieved for the purposes of enhancing readability of images taken by a wireless and portable device. .

Re claims 7 and 18, Ogasawara in view of Lev et al. discloses the method and system as recited in rejected claims 1 and 14 stated above, wherein said mobile device is at least one of the group consisting of a camera phone, mobile phone, smart phone, PDA, pager, pocket PC, desktop, or laptop computer (Fig. 1 and Fig. 10).

Re claims 8 and 19, Ogasawara in view of Lev et al. discloses the method and system as recited in rejected claims 1 and 14 stated above, wherein said barcode is constructed from at least one of standardized barcode symbology libraries consisting of the group of UPC-A, UC-E, ISBN, RSS-14, RSS-I4E, RSS-I4L, Interleaved 2 of 5, EAN/JAN-8, EAN/JAN-I3, Code 3, Code 39 Full ASCII, Code 128, PDF417, QR Code, or Data Matrix ([0009] and [0006] of Lev et al.).

Re claims 9 and 20, Ogasawara in view of Lev et al. discloses the method and system as recited in rejected claims 1 and 14 stated above, wherein said media content is a search' result of a database constructed from said barcode information (col. 22, ll. 40-68).

Re claims 10 and 21, Ogasawara in view of Lev et al. discloses the method and system as recited in rejected claims 1 and 14 stated above, wherein said media content transmitted to said mobile device is product information about said manufactured good (col. 22, ll. 45-51).

4. Claims 5 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogasawara (US 6,512,919) as modified by Lev et al. (US 2002/0102966 A1) as applied to claims 1 and 14 above, and further in view of Chiu (US 2002/0084330).

Re claims 5 and 16, the teachings of Ogasawara in view of Lev et al. have been discussed above.

However, Ogasawara nor Lev et al. explicitly teaches that said decoding of said barcode by said mobile device comprises the steps of recited in claims 16 and 17.

Chiu discloses the decoding steps of a barcode by recording a two-dimensional digital image, obtaining edge points from the image ([0014]), recognizing the symbology of the barcode ([0046]), counting and comparing the edge points to a predefined threshold value ([0038]), and decoding the data characters in the barcode ([0046]).

Therefore, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to employ the decoding steps of a barcode as taught by Chiu into the teachings of Ogasawara in view of Lev et al. in order to provide a decoding method to barcode reading process by

recording the image, obtaining edge points, recognizing symbology, counting and comparing the edge points to a threshold value, and decoding the data characters for detecting and recognizing barcode images.

5. Claims 6 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogasawara (US 6,512,919) in view of Lev et al. (US 2002/0102966 A1) as modified by Chiu (US 2002/0084330) as applied claims 5 and 16 above, and further in view of Brandt et al. (US 6,585,157).

Re claims 6 and 17, the teachings of Ogasawara in view of Lev et al. and Chiu have been discussed above.

However, none of the above fails to teach that a plurality of other symbology libraries are loaded by said mobile device if said number of edges is less than said predetermined threshold.

Brandt et al. disclose that if the edge strength of the elements in the potential quiet zone were below some threshold, then other factors could be considered to determine if this was a valid quiet zone, which is required for decoding a particular symbology (col. 31, ll. 29-42).

Therefore, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to employ the method of comparing edge strength of the elements and threshold to determine validation of quiet zone for decoding a particular symbology as taught by Brandt et al. into the teachings of Ogasawara in view of Lev. Et al. and Chiu in order to test whether edge strength of the elements is below some threshold that it would determine valid quiet zone for decoding a symbology.

Double Patenting

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7. Claims 1 and 4-24 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4, 7-15, and 17-25 of copending Application No. 10/796,153 of Frantz et al. Although the conflicting claims are not identical, they are not patentably distinct from each other because the method and the system of decoding and analyzing a barcode are same in general process of wireless network communication between a server and a portable unit.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Response to Arguments

8. Applicant's arguments filed December 5, 2005 have been fully considered but they are not persuasive.

Rejections under 35 U.S.C. § 103

The applicant argues that Ogasawara does not mention that the decoding may also be done directly on the phone.

The examiner respectfully disagrees and requests applicant's attention to the following teachings.

> In accordance with practice of the present invention, FIG. 13 illustrates an exemplary block level flow chart of the operation of the wireless videophone when used as a means of capturing image data through the integral digital camera, in accordance with a downloaded bar code image capture program. In accordance with the invention, and as was described above in connection with the first embodiment, a customer would interface with the store server using the wireless telephone portion of the system, identify themselves appropriately to the server and download an appropriate purchase transaction program which recognizes the videographic image capture capability of the customer's wireless videophone.
>
> After a program load is complete, the newly received purchase transaction program overwrites any previously received program which was stored in the system's

program memory. The program loader transfers control to the loaded purchase transaction program which initiates execution and assumes control over the system's peripheral I/O devices such as the keyboard 244, microphone 300, IC ,card reader/writer 227, videographic display 242 and digital video camera 236. The purchase transaction program also assumes control over all transmit and receive functions of the wireless videophone.

With particular reference to FIG. 13, once the purchase transaction program has been downloaded, a purchaser may use the wireless videophone, in particular the digital camera, to select various items which the consumer desires to purchase. Such selection is made by capturing an image of an item's UPC bar code data, or the like, within the image field of the digital camera. While the consumer is scanning a particular bar code with the digital camera, **the image seen by the camera is displayed on the system's graphic display screen** so that the consumer can visually verify that the entire image has been captured. If **character and/or pattern recognition software was downloaded to the system as part of the program, the customer need only inform the system that the image is ready for processing by pressing a pre-defined key on the system's keyboard**. Those skilled in the art will appreciate that various other codes, indicia, text, icons, and the like may be scanned and recognized by modern character and pattern recognition application routines. Thus, product selection need not be made in accordance with a UPC bar code but might be made with reference to a selection of product specific icons, each of which represent a particular product or service offered for purchase. For example, when grocery shopping, product specific icons might represent the stylistic outlines of a loaf of bread, carton of milk, a bunch of broccoli, and the like, allowing a consumer to quickly and efficiently select items for purchase without recourse to the complications of reading bar codes.

However, no matter the form of the indicia captured by the digital video camera, the system operates in identical manner for each indicia and is governed solely by operation of the downloaded program which is coded to recognize either characters or patterns as appropriate to the application. However, in the following, the types of videographic images captured by the video camera will all be subsumed under the generic term "bar code" image data.

With reference to FIG. 13, the program is generally in an idle mode while waiting a function command which is typically issued by a consumer's depressing a particular function key, such as a pre-defined bar code read key, on the system's keyboard. Once a particular function key has been pressed, that function is then executed by the downloaded program. In the case of FIG. 13, if the bar code read key has been depressed the program captures the bar code image taken by the digital camera. Once the bar code image has been captured, **the program decodes the bar code image data to its corresponding numeric bar code data, by operating on the bar code image with pattern recognition software**. Once the bar code has been decoded to its numeric values, the **bar code data is transmitted to the store's server** through the wireless telephone function of the system.

It is clearly disclosed that the mobile device with pre-downloaded pattern recognition program, may decode the captured barcode image directly on the mobile device. Therefore, the applicant's argument is not persuasive.

It is also noted that the applicant has not responded to the provisional double patenting rejection discussed in previous Office Action(s).

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven S. Paik whose telephone number is 571-272-2404. The examiner can normally be reached on Monday - Friday 5:30a-2:00p (Maxi-Flex*).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 571-272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Steven S. Paik
Primary Examiner
Art Unit 2876

ssp